IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 411 OF 2007
IN
WRIT PETITION NO. 5241 OF 2005

Krishnakumar M. Pol ..Petitioner

Vs.

Sunita K. Pol ..Respondent

Mr. R.S. Apte with Mr. A.A. Garge for petitioner.

Ms. Sneha Dwiwedi with Mr. R.P. Mudholkar for respondent.

CORAM: B.H. MARLAPALLE,JJ.

Reserved on : April 13, 2007.

Pronounced on : April 21, 2007.

P.C.:

1. Further to the order dated 8/3/2007 Dr. Ashok Maruti Pol, the elder brother of the petitioner-husband, was present before me and from the information received from him regarding the immovable properties of the family, it prima facie appears that the petitioner has the financial capacity to take care of the education of his daughter Komal, who stays with

her mother, the present respondent and to pay maintenance for her till she gets married or is employed on completion of her education.

2. This application has been filed by the husband alleging that the respondent-wife has not been cooperating in taking timely steps as agreed and noted down in the compromise order dated 19/10/2006, in terms of which Writ Petition No. 5241 of 2005 was disposed off. The respondent-wife has filed her affidavit and has pointed out that it is the petitioner-husband who is not taking due steps to bring the daughter's name on record in the pending court cases and it is pointed out that the suit filed in Kolhapur in respect of the joint property came to be dismissed in default due to inaction on the part of the petitioner. The wife further contends that the husband is reluctant to comply with the compromise order so far as it relates to the welfare of his daughter. The wife further pointed out that the arrears of maintenance amount come to Rs.1,07,000/- and though she has given up her claim, she insists that the daughter must be paid maintenance every month

till she is married or she gets a job on completion of her education.

3. Admittedly, the amount of Rs.18,000/- deposited by the petitioner has been withdrawn by the respondent-wife. The learned Civil Judge, Senior Division at Thane by his order dated 18/6/2005 had directed the husband to pay an amount of Rs.3500/- per month to both the respondent-wife and her daughter towards their monthly maintenance. The wife has given up her claim for maintenance by way of compromise and to obtained a decree of divorce by consent. However, the wife is more concerned about her daughter's welfare and also the maintenance amount to be paid by the petitioner-husband for the same every month. The maintenance amount as directed by the Lower Court did not specify any date from which the same should be paid and it could be safely presumed that at least from 1/7/2005 onwards the husband was required to pay the said amount. As noted earlier, an amount of Rs.18,000/- was deposited and if an amount of Rs.2000/- per month towards the maintenance for the daughter is counted, the amount of Rs.18,000/- would

discharge the liability of the father till March, 2006.

4. Under these circumstances, this application is disposed off by the following directions:-

(a) Clause (iv) of the order dated 19/10/2006 passed in Writ Petition No. 5241 of 2005 shall be substituted as under:

"The father shall pay an amount of Rs.2000/- per month to the daughter by way of monthly maintenance from 1st August, 2006 and the said amount will be deposited in her bank account before 15th day of the next month till she gets married or gets a job on completion of her education, whichever is earlier. The respondent-wife will not claim any arrears of maintenance pursuant to the impugned order in consideration of the husband agreeing to pay the maintenance amount to the

daughter."

(b) The maintenance amount of Rs.2000/- per month payable by the petitioner to his daughter from August, 2006 shall be remitted to her bank account within two weeks from today, if the same is in arrears as of now and for the month of May, 2007 onwards, the said amount shall be deposited in her bank account within the time limit as mentioned hereinabove.

(c) The petitioner shall take due steps to get the dismissed civil suit or the proceedings in the Civil Court restored, if the same has not yet been done, within a period of eight weeks from today.

(d) As soon as the proceedings before the Civil Court at Kolhapur are restored and a copy of the order is forwarded to the respondent-wife, she shall appear in Marriage Petition No. 165 of 2003 and submit her

affidavit within two weeks therefrom so as to obtain a divorce by consent.

5. Certified copies of the order be issued to the learned advocates for the respective parties on priority basis.

(B.H. Marlapalle,J.)